



June 22, 2020

Dear Senators and Representatives:

On behalf of National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, I write urging you to avoid adding burdensome "Buy American" mandates to the Fiscal Year (FY) 2021 National Defense Authorization Act (NDAA). "Buy American" requirements for prescription drugs, in particular, could lead to shortages, higher costs, and less access for the patients and providers who need these treatments the most.

One bill that some lawmakers have expressed interest in including in the FY 2021 NDAA is the Pharmaceutical Independence Long-Term Readiness Reform Act (H.R. 4710).<sup>1</sup> This bill, which has attracted support from both Republican and Democratic Representatives, would require the Departments of Defense and Veteran Affairs to "only acquire and purchase American-made and Federal Drug Administration approved raw materials, medicines, and vaccines for the Department of Defense." The legislation defines "American-made" materials, medicines, and vaccines as ones "supplied from, created, or supplied by the United States, including any territory or possession of the United States." While the bill includes an exception allowing the Departments to obtain such materials "from a trusted foreign supplier" if such a scenario is "unavoidable," the bill's authors do not define who is a "trusted foreign supplier" nor what constitutes an "unavoidable scenario."

NTU Foundation warned lawmakers last year about the many pitfalls of protectionism in U.S. defense spending, with Bryan Hickman writing:

"At least in recent years, this debate has focused more on parochial interests and populist rhetoric, neither of which really serves the needs of the military or the DIB. Some may also argue that defense spending is too important to subject to the same thrift and scrutiny applied elsewhere. However, in reality, the opposite is true. With ever-expanding debts and deficits, the United States should never settle for spending blindly with no accountability, regardless of any national security implications. Moreover, with a growing list of increasingly complex threats to America's security, military spending should be efficient and provide the best possible resources and equipment to the men and women in uniform. Policies that needlessly restrict competition in order to protect U.S. companies and contractors undermine these objectives by increasing long-term costs and reducing the quality of products purchased and placed into military service. Worst of all, they often do so to serve political ends."<sup>2</sup>

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<sup>1</sup> Congress.gov. (Introduced October 17, 2019). "H.R.4710 - Pharmaceutical Independence Long-Term Readiness Reform Act." Retrieved from: <https://www.congress.gov/bill/116th-congress/house-bill/4710/text?r=9&s=1> (Accessed June 12, 2020.)

<sup>2</sup> Hickman, Bryan. "Protectionism in U.S. Defense Spending: The Cost of Mistaking Politics and Parochialism for National Security." National Taxpayers Union Foundation, April 9, 2019. Retrieved from: <https://www.ntu.org/foundation/detail/protectionism-in-us-defense-spending-the-cost-of-mistaking-politics-and-parochialism-for-national-security>

These concerns are particularly pertinent as the national debt soars in the wake of the COVID-19 pandemic and recession.

Besides glaring issues with the legislation's lack of specificity on key terminology, and with protectionism in U.S. defense spending already writ large, any "Buy American" requirements for the Department of Defense will only backfire on military leaders and American troops. Recently, more than 250 economists sent a letter to President Trump, Speaker Pelosi, and Leader McConnell warning them about "Buy American" requirements for medical supplies and pharmaceutical products. They wrote:

"Current shortages of critical medical goods in the Covid-19 pandemic have revealed to all the desirability of diversifying sources of supply and increasing inventory of storable medical goods. Diversifying supply sources and increasing inventories will be costly, but a broad Buy America regime will be more costly. The variety, supply, and price of goods available to Americans will suffer under a broad Buy America regime. Taxpayers and patients will pay more for drugs and medical supplies. Smart policies such as federal government stockpiling look more promising."<sup>3</sup>

Some recent "Buy American" requirements appear aimed at China, given misperceptions about China's role in America's medical supply chain. While the federal government can and should hold China accountable for alleged abuses and misconduct, a "Buy American" requirement for medical goods - applied to the Departments of Defense and Veteran Affairs as proposed in H.R. 4710, or to every federal agency as proposed by some in the Trump administration - would harm America and its trade and security allies first and foremost, not China.

NTU Foundation has noted that a plurality of U.S. pharmaceutical imports come from Ireland, a close ally. Germany, another ally, is next on the list, followed by three more allies: Switzerland, Italy, and India. China is 17th on the list, supplying only 1.2 percent of U.S. pharmaceutical imports in 2019.<sup>4</sup> Even when accounting for active pharmaceutical ingredients (APIs), a narrower category, only 13 percent of API manufacturers supplying the U.S. market are in China, while 28 percent are here in the U.S. and 59 percent are located around the rest of the world.<sup>5</sup>

Many policymakers pushing "Buy American" requirements want to shore up domestic manufacturing of medical goods and supplies. While a global supply chain for medical goods remains critical for American providers and patients, boosting domestic manufacturing for some of these products remains a legitimate aim. NTU has outlined a number of policies Congress can pursue to make it easier for medical goods and supplies manufacturers to invest in America, while still retaining a robust global supply chain. Our options include:

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<sup>3</sup> "More than 250 Leading Economists Warn Trump Administration: 'Buy America' Provision Would Harm American Response to Coronavirus." National Taxpayers Union, May 13, 2020. Retrieved from:

<https://www.ntu.org/publications/detail/more-than-250-leading-economists-warn-trump-administration-buy-america-provision-would-harm-american-response-to-coronavirus>

<sup>4</sup> Riley, Bryan. "Pharma "Buy American" Mandates Could Hit U.S. Allies." National Taxpayers Union Foundation, March 11, 2020. Retrieved from: <https://www.ntu.org/foundation/detail/pharma-buy-american-mandates-could-hit-us-allies>

<sup>5</sup> Food and Drug Administration. (October 30, 2019). "Testimony: Safeguarding Pharmaceutical Supply Chains in a Global Economy." Retrieved from:

<https://www.fda.gov/news-events/congressional-testimony/safeguarding-pharmaceutical-supply-chains-global-economy-10302019> (Accessed June 12, 2020.)

- Suspending tariffs on medical products that help the U.S. fight the pandemic;
- Enacting broad-based changes to the tax code that make it less expensive for pharmaceutical innovators to onshore their production to the U.S., such as full and immediate expensing;
- Correcting the Tax Cuts and Jobs Act’s mistreatment of research and development (R&D) costs, and;
- Relaxing or repealing outdated regulations that inhibit pharmaceutical R&D and approval in the U.S.<sup>6</sup>

Any of the above would be far more productive and less destructive for patients and taxpayers than “Buy American” mandates, and we stand ready to work with Congress to implement them in a future COVID-19 relief or stimulus package. Thank you for your consideration, and should you have any questions I am at your service.

Sincerely,

Andrew Lautz  
Policy and Government Affairs Manager

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<sup>6</sup> Lautz, Andrew. “The U.S. Can Make It Easier for Pharmaceutical Companies to Invest in America, While Retaining a Robust Global Supply Chain.” National Taxpayers Union, May 11, 2020. Retrieved from: <https://www.ntu.org/publications/detail/the-us-can-make-it-easier-for-pharmaceutical-companies-to-invest-in-america-while-retaining-a-robust-global-supply-chain>